

Rome, 1st December 2003

Re. 1506/03

Mr Fabrice Demarigny
Secretary General CESR
11/13 Avenue de Friedland
75008 Paris

Dear Mr Demarigny,

Re: The role of CESR in the regulation and supervision on UCITS and Asset Management activities in the EU (ref. CESR/03-378b).

Assogestioni is the association representing fund and asset management companies in Italy and its members have a direct interest in the new rulemaking process for securities markets in Europe. Assogestioni is also a long standing member of FEFSI and EAMA, where it has taken part in all working groups, public affairs events and is a member of the board and the governing council.

Assogestioni has paid great attention to the debate held in preparation of the inclusion of UCITS under Lamfalussy procedure and welcomes the opportunity to comment on CESR working procedures and its future agenda in this field. We set out here below our observations to the points raised in the consultation paper "The role of CESR in the regulation and supervision on UCITS and Asset Management activities in the EU".

1. BACKGROUND

We agree with the position expressed by CESR on the necessity of its future involvement in the areas of UCITS and asset management in order to provide a more harmonised regulation of investment management.

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With regard to the necessity of a strict relationship between Lamfalussy pillars, CESR should provide for link the working sphere “investment management” with the working sphere “pensions”, which fall under the insurance pillar, because pensions are to be considered closely related to the provision of investment management services.

With regard to CESR’s proposal to separate the so-called “buy side” from the “sell side”, we agree that it is of vital importance to recognise the specificity of the fiduciary duty to manage investment under the newly agreed structure also by means of a separate working sphere within CESR to deal with specific buy-side issues.

2. AREAS OF WORK BY CESR IN INVESTMENT MANAGEMENT ACTIVITIES

Generally speaking, we agree with the overview of CESR on general points and priorities set out in the consultative paper.

In particular:

- with regard to the **LIST OF GENERAL POINTS**, we reckon that it seems to reflect the benefits that are derived from the good cooperation between the knowledge of the subject by CESR experts and by representatives of the EU industry. In particular, we appreciate:
 - (i) the opportunity that the future work done by CERS regarding UCITS would be conducted in full coherence with the EU institutional framework;
 - (ii) the opportunity of a global vision of the CESR’s work on the so-called “buy side”, not limited to investment funds;
 - (iii) the opportunity to take into account the work already done by IOSCO.

From a very practical point of view, principle (c) raises our concern insofar CESR has the intention not to start working on matters where the UCITS Contact Committee is about to finish its work (i.e. simplified prospectus and derivatives). In order to guarantee the continuity of the work done by the Contact Committee it should be considered the immediate involvement of CESR.

- with regard to the **LIST OF PRIORITIES** we agree with all the four areas of work indicated in the document.
In particular it would be very useful, according to priority (A) and in order to have a unified consideration of collective and individual portfolio management activities, if CESR could elaborate and standardize a coherent definition of best execution for investment management.

Finally, in our point of view, because of less than three months are left for the UCITS application in member’s national legislations, we consider the main priority is to concentrate all CESR’s efforts, at this stage, to the numerous issues which need to be addressed for a consistent transposition and implementation of the new UCITS directive. Nevertheless, CESR’s activity should be focused on the creation of a level playing field on investor protection and on international competitiveness.

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3. ORGANISATION OF CESR's WORK.

CESR's approach appear well suited to the proposed aim and we agree with the proposals set out in the Consultation paper regarding the organization of CESR's work.

On the basis of our experience, CESR's consultation procedures are structured so as to guarantee the effective involvement of all interested parties and are based on adequately balanced consultative documents although, as we have already underlined to the Inter-institutional Monitoring Group chaired by Mr Michel Prada, there is surely room for improvement.

Our foremost concern is twofold: first we deem that CESR and the soon-to-be created banking and insurance regulators should cooperate effectively in order to assure a plain level field of protection and competition among services that are very close in nature. In particular our members are very worried by possible regulatory arbitrage behavior of some universal players vis à vis different regulatory approaches.

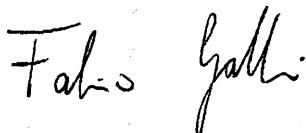
Second, we are concerned that more than one national regulator might be responsible for investment management in each country and therefore a particular effort should be devoted to the coordination of every regulatory body at national level.

Further, it would be extremely useful to increase the ex-post transparency standards for the explanation of the acceptance/rejection of proposals forwarded by market participants.

Assogestioni believes that the current functioning of CESR's organization and his sub structures is already conducive to the creation of a more effective securities market regulatory framework.

With appreciation for the opportunity to comment, we remain at your disposal for any clarification you should need on the above.

Best regards.

A handwritten signature in black ink, reading "Fabio Galli". The signature is written in a cursive, flowing style. The first name "Fabio" is written with a large 'F' and the last name "Galli" is written with a large 'G' and a trailing flourish.